



DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[222A2100DD/AASS003600/A0T902020.999900.253G]

Liquor Control Ordinance; Catawba Indian Nation

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the liquor control ordinance of the Catawba Indian Nation. The liquor control statute regulates and controls the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages on the trust lands of the Catawba Indian Nation [previously known as Catawba Tribe of South Carolina].

DATES: This Amendment is effective [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Ms. Rebecca J. Smith, Tribal Relations Specialist, Eastern Regional Office, Bureau of Indian Affairs, 545 Marriott Drive, Suite 700, Nashville, Tennessee 37214, Telephone: (615) 564-6711, Fax: (615) 564-6701.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the Federal Register notice of adopted liquor control ordinances for the purpose of regulating liquor transactions in Indian country. The Nation’s General Council of the Catawba Indian Nation duly adopted the Nation’s Alcoholic Beverage Control Ordinance on May 1, 2021.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary - Indian Affairs. I certify that the Nation’s General Council of the Catawba Indian Nation duly adopted by The General Council of the Catawba Indian Nation

duly adopted the Catawba Indian Nation's Alcoholic Beverage Control Ordinance on May 1, 2021.

The Catawba Indian Nation Alcoholic Beverage Control Ordinance reads as follows:

CATAWBA INDIAN NATION
REGULATION OF ALCOHOLIC BEVERAGES
ARTICLE 1 –
GENERAL PROVISIONS

SEC. 18B-100. – GENERAL PROHIBITION AND PURPOSE.

- (a) This Ordinance is intended to establish a uniform system of control over the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages on the trust lands of the Catawba Indian Nation, and to provide procedures to insure the proper administration of the tribal laws regulating alcoholic beverages. This Ordinance shall be liberally construed to the end that the sale, purchase, transportation, manufacture, consumption, and possession of alcoholic beverages shall be prohibited except as authorized in this Ordinance.

- (b) The introduction, transportation, sale, or possession of intoxicating beverages shall be lawful within the Indian country of the Catawba Indian Nation, provided that such introduction, transportation, sale or possession conforms in all respects to the laws of both the State in which it occurs and the Catawba Indian Nation, as both may be amended from time to time. Any Tribal laws, resolutions or ordinances heretofore enacted which prohibit the introduction, advertisement, sale or possession of intoxicating beverages within the Indian country of the Catawba Indian Nation are hereby repealed.

SEC. 18B-101. - DEFINITIONS.

As used in this Ordinance, unless the context requires otherwise:

- (1) "Tribal ABC law" or "Tribal ABC laws" means any provision in this Ordinance, and the rules issued by the Commission under the authority of this Ordinance.
- (2) "Tribal ABC permit" or "permits" means any written or printed authorization issued by the Commission pursuant to the provisions of this Ordinance. Unless the context clearly requires otherwise, as in the provisions concerning applications for permits, "ABC permit" or "permit" means a presently valid permit.
- (3) "Alcoholic beverage" means any beverage containing at least one-half of one percent alcohol by volume, including malt beverages, unfortified wine, fortified wine, spirituous liquor, and mixed beverages.
- (4) [Reserved for future codification purposes.]
- (5) "Commission" means the Tribal Alcoholic Beverage Control Commission ("TABCC").
- (6) "Fortified wine" means any wine, of more than 16 percent and no more than 24 percent alcohol by volume, made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States.
- (7) "Malt beverage" means beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage except unfortified or fortified wine as defined by this Ordinance, containing at least one-half of one percent, and not more than 15 percent, alcohol by volume. Any malt beverage containing more than six percent alcohol by volume shall bear a label clearly indicating the alcohol content of the malt beverage.
- (8) "Mixed beverage" means either of the following: a. A drink composed in whole or in part of spirituous liquor and served in a quantity less than the quantity contained in a closed

package. b. A premixed cocktail served from a closed package containing only one serving.

(9) "Nontaxpaid alcoholic beverage" means any alcoholic beverage upon which the taxes imposed by the United States, the Catawba Indian Nation, or any other territorial jurisdiction in which the alcoholic beverage was purchased have not been paid.

(10) "Permittee" means a person who receives a Tribal ABC permit.

(11) "Person" means an individual, firm, partnership, association, corporation, limited liability company, other organization or group, or other combination of individuals acting as a unit.

(12) "Premises" means any facility licensed hereunder including, without limitation, any tribal gaming facility.

(13) "Sale" means any transfer, trade, exchange, or barter, in any manner or by any means, for consideration.

(14) "Spirituous liquor" or "liquor" means distilled spirits or ethyl alcohol, including spirits of wine, whiskey, rum, brandy, gin and all other distilled spirits and mixtures of cordials, liqueur, and premixed cocktails, in closed containers for beverage use regardless of their dilution.

(15) [Reserved for future codification purposes.]

(16) "Unfortified wine" means any wine of 16 percent or less alcohol by volume made by fermentation from grapes, fruits, berries, rice, or honey; or by the addition of pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice, or honey that is contained in the base wine and produced in accordance with the regulations of the United States.

**SEC. 18B-102. - MANUFACTURE, SALE, ETC., FORBIDDEN EXCEPT AS
EXPRESSLY AUTHORIZED.**

- (a) General prohibition. It shall be a violation for any person to manufacture, sell, transport, import, deliver, furnish, purchase, consume, or possess any alcoholic beverages except as authorized by the Tribal ABC law.
- (b) Violation. Unless a different punishment is otherwise expressly stated, any person who violates any provision of this Ordinance shall be subject to a civil fine in an amount not less than \$250 and not more than \$5,000 for each violation.

SECS. 18B-103, 18B-104. - RESERVED.

SEC. 18B-105. - ADVERTISING.

General Rule. No person shall advertise alcoholic beverages on Tribal trust land except in compliance with the rules of the Commission.

SECS. 18B-106—18B-108. - RESERVED.

SEC. 18B-109. - SHIPPING OF PRODUCTS FOR RESALE.

No person shall have malt beverages or unfortified wine shipped directly from a point outside the state to a destination within the Catawba Indian Nation for resale within the Indian country of the Catawba Indian Nation.

SEC. 18B-110. - EMERGENCY

When the Chief of the Catawba Indian Nation finds that a "state of emergency," as defined by Tribal law, exists anywhere on Tribal land, he may order the cessation of all sales, transportation, manufacture, and bottling of alcoholic beverages.

The Chief's order shall apply in those portions of Tribal land designated in the order, for the duration of the state of emergency. Any order by the Chief under this section shall be directed to the Chairman of the Commission.

SEC. 18B-111. – NONTAXPAID ALCOHOLIC BEVERAGES.

No person may possess, transport, or sell nontaxpaid alcoholic beverages except as authorized by the Tribal ABC law.

SEC. 18B-112. - TRIBAL ALCOHOLIC BEVERAGE CONTROL.

- (a) The Tribal Alcoholic Beverage Control Commission shall possess the same powers and authority within the Indian country of the Catawba Indian Nation as conveyed upon state administrative agencies that regulate alcoholic beverages.
- (b) Alcoholic beverages which may be sold. No alcoholic beverage may be sold on Indian country lands under the jurisdiction of the Catawba Indian Nation pursuant to this section which has not been approved for sale in the state in which the sale occurs.
- (c) Establishment of a Tribal Commission. The Tribal Commission shall have authority to issue ABC permits to retail and commercial establishments, located wholly within the Indian country of the Catawba Indian Nation, and to regulate the purchase, possession, consumption, sale, and delivery of alcoholic beverages at permitted outlets and premises. The fees generated by the Tribal Alcoholic Beverage Control Commission for the issuance of retail permits may be retained by the Catawba Indian Nation to offset costs of operating the Tribal Alcoholic Beverage Control Commission.
- (d) Establishment of rules. The Tribal Alcoholic Beverage Control Commission shall adopt state rules regulating retail outlet activity as may be required under applicable law, and such rules may be site-specific.

(e) Recognition of Applicable State Authority. The Tribal Alcoholic Beverage Control Commission has the authority to enter into agreements with states to provide for the sale, delivery, and distribution of spirituous liquor to the Tribal Alcoholic Beverage Control Commission. When required and able to do so under applicable law, the Tribal Alcoholic Beverage Control Commission shall purchase spirituous liquor for resale by the Tribal Alcoholic Beverage Control Commission exclusively from the state or state-approved vendors at the same price and on the same basis that such spirits are purchased by local entities. To the extent there is a conflict between the Tribal Alcoholic Beverage Control Commission's authority or purpose and the state's authority or purpose, the state's authority or purpose shall prevail, to the extent there is no conflict of law as provided in subsection (i) below.

(f) Discrimination. The Tribal Alcoholic Beverage Control Commission shall not discriminate against non-Indians in the application of the Tribal ABC law. Non-Indians shall be entitled to apply for and receive ABC permits in the same manner as an Indian on Indian country lands under the jurisdiction of the Catawba Indian Nation.

(g) Resolution of Contested Cases. If the Tribal Alcoholic Beverage Control Commission levies a fine, or suspends or revokes a permit pursuant to applicable law for a violation of the provisions applicable to the Catawba Indian Nation in this section, the permittee shall have the right of appeal of an agency final decision of the Tribal Commission to the Tribal Courts, if formed at the time of the Commission's final decision. Any further appeal shall be to the appellate courts of the Nation, if formed. In the absence of a Tribal Court, appeal shall be had to the Executive Committee, the results of which appeal shall be final. All fines paid to the Tribal Commission in satisfaction of any penalty assessed by the Tribal Commission may be retained by the Catawba Indian Nation to offset costs of operating the Tribal Alcoholic Beverage Control Commission.

- (h) Failure to comply with state law. The Nation shall conform to future amendments to state law as may be required by 18 U.S.C. § 1161.
- (i) Conflict of laws. The Nation does not believe any provision of this Ordinance or the application of any related state law presents a conflict with federal law. In the event such conflict arises, this Ordinance shall be interpreted in a manner that resolves the conflict in favor of applicable federal law.

SECS. 18B-113—18B-119. - RESERVED.

SEC. 18B-120. - ADDITIONAL DEFINITIONS.

As used in this Article:

- (1) "Aggrieved party" means a person who sustains an injury as a consequence of the actions of the underage person, but does not include the underage person or a person who aided or abetted in the sale or furnishing to the underage person.
- (2) "Injury" includes, but is not limited to, personal injury, property loss, loss of means of support, or death. Damages for death shall be determined by the Court. Nothing in subdivision (1) of this section shall be interpreted to preclude recovery under this Article for loss of support or death on account of injury to or death of the underage person or a person who aided or abetted in the sale or furnishing to the underage person.
- (3) "Underage" person means a person who is less than the age legally required for purchase of the alcoholic beverage in question.
- (4) "Vehicle" shall have the same meaning as prescribed by North Carolina G.S § 20-4.01(49).

SEC. 18B-121. - CLAIM FOR RELIEF CREATED FOR SALE TO UNDERAGE PERSON.

An aggrieved party has a claim for relief for damages, in the Nation's courts, if formed, against a permittee if:

- (1) The permittee or his agent or employee negligently sold or furnished an alcoholic beverage to an underage person; and
- (2) The consumption of the alcoholic beverage that was sold or furnished to an underage person caused or contributed to, in whole or in part, an underage driver's being subject to an impairing substance, as defined in the laws of the state where the beverage was sold or furnished, at the time of the injury; and
- (3) The injury that resulted was proximately caused by the underage driver's negligent operation of a vehicle while so impaired.

SEC. 18B-122. - BURDEN OF PROOF AND ADMISSIBILITY OF EVIDENCE.

The plaintiff shall have the burden of proving that the sale or furnishing of the alcoholic beverage to the underage person, as defined, was, under the circumstances, negligent. Proof of the sale or furnishing of the alcoholic beverage to an underage person, as defined, without request for identification shall be admissible as evidence of negligence. Proof of good practices (including but not limited to, instruction of employees as to laws regarding the sale of alcoholic beverages, training of employees, enforcement techniques, admonishment to patrons concerning laws regarding the purchase or furnishing of alcoholic beverages, or detention of a person's identification documents in accordance with Section 18B-129 and inquiry about the age or degree of intoxication of the person), evidence that an underage person misrepresented his age, or that the sale or furnishing was made under duress is admissible as evidence that the permittee was not negligent.

SEC. 18B-123. - LIMITATION ON DAMAGES.

The total amount of damages that may be awarded to all aggrieved parties pursuant to any claims for relief under this Article is limited to no more than \$500,000.00 per occurrence. When all claims arising out of an occurrence exceed \$500,000.00, each claim shall abate in the proportion it bears to the total of all claims.

SEC. 18B-124. - JOINT AND SEVERAL LIABILITY.

The liability of the negligent driver or owner of the vehicle that caused the injury and the permittee which sold or furnished the alcoholic beverage shall be joint and several, with right of contribution but not indemnification.

SEC. 18B-125. - RESERVED.

SEC. 18B-126. - STATUTE OF LIMITATIONS.

The statute of limitations is three years from the date of the injury.

SECS. 18B-127, 18B-128. - RESERVED.

**SEC. 18B-129. - NO LIABILITY FOR REFUSAL TO SELL OR FOR HOLDING
DOCUMENTS.**

- (a) No permittee or his agent or employee may be held liable for damages resulting from the refusal to sell or furnish an alcoholic beverage to a person who fails to show proper identification as described in Section 18B-302(d), or who appears to be an underage person.
- (b) No permittee or his agent or employee may be held civilly liable if the permittee or his agent or employee holds a customer's identification documents for a reasonable length of time in a good faith attempt to determine whether the customer is of legal age to purchase an alcoholic beverage, provided the permittee or his agent or employee informs the customer of the reason for his actions.

SECS. 18B-130—18B-199. - RESERVED.

ARTICLE 2 –
ADMINISTRATION

SEC. 18B-200. - TRIBAL ALCOHOLIC BEVERAGE CONTROL COMMISSION.

- (a) Creation of Commission; compensation. The Tribal Alcoholic Beverage Control Commission shall consist of at least three members: one Chairman and two associate members. The Commissioners shall receive compensation and benefits at a level determined by Executive Committee resolution. This compensation shall be included in the Commission's annual budget. Commissioners shall be reimbursed for actual expenses incurred on Commission business, including necessary travel expenses.
- (b) Appointment of members. Members of the Commission shall be nominated by the Chief and confirmed by the Executive Committee by written resolution. Each member's term shall begin on the date of such resolution. At least one seat must be filled by a Catawba citizen.
- (c) Nominees to the Commission shall be selected on the basis of their commitment to the interests and goals of the Commission without forgetting the interests of the Catawba Indian Nation community, their preparedness to assume responsibility for the decisions of the Commission and to ensure that said decisions are implemented, and their willingness to devote the time and energy necessary to familiarize themselves with the strategic, financial and operational issues facing the Commission.
- (d) Terms of members. Commission member shall initially serve for one, two, and three-year terms. Thereafter, each Commission member shall serve for a three-year term. The Commissioner shall elect their own officers at the start of each fiscal year. A Commission member may be removed for cause by a majority vote of the Executive Committee.

Nothing in this ordinance shall be construed to preclude a member of the Commission from serving successive terms.

- (e) Vacancy. The Chief shall fill any vacancy on the Commission by appointing a successor within 30 days after the date on which the vacancy becomes effective subject to approval by Executive Committee. If the Chairman's seat becomes vacant, the Vice Chairman shall immediately assume the Chairman's seat and complete the remaining term of the vacating Chairman. A new member of the Commission will be appointed by the Chief, subject to approval by Executive Committee, to complete the remaining term of the former Vice Chairman. The Commission will then elect a new Vice Chairman.
- (f) Employees. The chairman is authorized to employ, discharge, and otherwise supervise subordinate personnel of the Commission.
- (g) Independence. The Commission shall be an independent agency. No prior or subsequent review by the Chief, Executive Committee, the Nation's Gaming Commission or the Nation's gaming enterprises shall be required or permitted, except as otherwise explicitly provided in this ordinance.
- (h) Sovereign Immunity of the Commission. The Commission, as an instrumentality of the Nation, retains all of the Nation's rights, privileges and immunities, including sovereign immunity from suit.
- (i) Oath of Office. Prior to beginning their official duties, each member of the Commission shall take the following oath before some officer authorized to administer oaths: "I do solemnly swear (or affirm) that I will faithfully execute the duties of Commissioner as a member of the Tribal Alcoholic Beverage Control Commission and will to the best of my ability, preserve, protect and defend the constitution and governing document and laws confirmed and ratified by the enrolled members of the Catawba Indian Nation. I do

solemnly swear (or affirm) that I have not obtained my appointment to this Commission by bribery or any undue or unlawful means or fraud, and that in all measures which may come before me, I will so conduct myself as in my judgment shall appear most conducive to the interest and prosperity of the Catawba Indian Nation."

(j) All Commissioners will be subject to initial and subsequent random drug testing per the Tribal personnel policy. Refusal to submit to any drug testing or a positive test result shall result in an immediate dismissal from the Commission. Drug testing shall be paid from the annual budget of the Commission.

(k) All Commissioners are subject to the same criminal background checks as members of the Nation's Gaming Commission. Each Commissioner is required to update their information.

SEC. 18B-201. - CONFLICT OF INTEREST.

(a) Financial interests restricted. No person shall be appointed to or employed by the Commission if that person or a member of that person's family related to that person by blood or marriage to the first degree has or controls, directly or indirectly, a financial interest in any commercial alcoholic beverage enterprise, including any business required to have a Tribal ABC permit. The Commission may exempt from this provision any person, other than a Commission member, when the financial interest in question is so insignificant or remote that it is unlikely to affect the person's official actions in any way. Exemptions may be granted only to individuals, not to groups or classes of people, and each exemption shall be in writing, be available for public inspection, and contain a statement of the financial interest in question. For purposes of this Section 18B-201, Tribal membership and the receipt of benefits from the Nation as a citizen shall not be construed as a "financial interest."

(b) Self-dealing. The Commission shall not contract or otherwise deal in any business matter so that a member in any way benefits, directly or indirectly, from the transaction.

(1) No Commission member may have a financial interest in any operation or entity licensed, permitted, or otherwise authorized pursuant to this ordinance. However, nothing in this section shall prohibit any Commission member from having a financial interest as would any citizen of the Nation, if entitled to such interest as a citizen of the Nation.

(2) No Commission member shall accept any gift or other thing of value from any applicant, licensee, or permittee under this ordinance, except for non-monetary gifts of insignificant value received in the ordinary course of business or food and refreshments customarily made available in the ordinary course of meetings.

(c) Dealing for family members. Neither the Commission shall contract or otherwise deal in any business matter so that a member's spouse or any person related to him by blood to a degree of first cousin or closer in any way benefits, directly or indirectly, from the transaction unless:

(1) The member whose relative benefits from the transaction abstains from participating in any way, including voting, in the decision;

(2) The minutes of the meeting at which the final decision is reached specifically note the member whose spouse or relative is benefited and the amount involved in each transaction; and

(3) The next annual audit of the Commission or local board specifically notes the member and the amount involved in each transaction occurring during the year covered by the audit.

SEC. 18B-202. - RESERVED.

SEC. 18B-203. - POWERS AND DUTIES OF THE COMMISSION.

(a) Powers. The Commission shall have authority to:

- (1) Administer the Tribal ABC laws;
- (2) Provide for enforcement of the Tribal ABC laws, in conjunction with state regulatory authorities;
- (3) Issue ABC permits as allowed under this Ordinance;
- (4) Adopt rules and procedures for the issuance and enforcement of ABC permits;
- (5) Administer an annual budget with said budget to be approved annually by the Executive Committee;
- (6) Act as the distributor of all alcohol on Tribal trust lands. Spirituous liquor and fortified wine shall be purchased by TABCC according to applicable law. Malt beverages and unfortified wine shall be purchased from state-authorized distributors and may be redistributed from a TABCC warehouse or authorized to be delivered directly to TABCC authorized permittee, within the Indian country of the Catawba Indian Nation if authorized to do so under applicable law; and
- (7) Issue any retail ABC license or permit issued by state regulatory agencies, including a temporary license or permit. Negotiate and enter into contract with state regulatory agencies for purchase of spirituous liquor and fortified wine; and
- (8) Adopt fiscal control rules concerning the borrowing of money, maintenance of working capital, investments, appointment of a financial officer, the daily deposit

of funds and any other rules necessary to assure the proper accountability of public funds.

- (b) Implied powers. The Commission shall have all other powers which may be reasonably implied from the granting of the express powers stated in subsection (a), or which may be incidental to, or convenient for, performing the duties given to the Commission.

SEC. 18B-204. - RESERVED.

SEC. 18B-205. - ACCOUNTS, REPORTS AND AUDITS REQUIRED.

- (a) Accounts and reports. The Commission shall be required to submit to Executive Committee and to the Chief such reports as may be required by Executive Committee.
- (b) Annual independent audit. The Commission shall engage independent auditors for annual audits of its internal operations. Such independent audits must apply generally accepted accounting principles.

SECS. 18B-206—18B-299. - RESERVED.

ARTICLE 3 –

SALE, POSSESSION, AND CONSUMPTION

**SEC. 18B-300. - PURCHASE, POSSESSION AND CONSUMPTION OF MALT
BEVERAGES, FORTIFIED AND UNFORTIFIED WINE, MIXED
BEVERAGES AND SPIRITUOUS LIQUORS.**

Generally. Except as otherwise provided in this Ordinance, the purchase, consumption, and possession of malt beverages, fortified and unfortified wine, mixed beverages and spirituous liquors by individuals 21 years old and older for their own use is permitted upon any licensed Premises without restriction. All alcoholic beverages sold upon any licensed Premises must be

consumed or disposed of upon these premises. No off-premises sale of alcoholic beverages from a permittee is allowed.

SEC. 18B-301. - RESERVED.

SEC. 18B-302. - SALE TO OR PURCHASE BY UNDERAGE PERSONS.

(a) Sale. It shall be a violation for any person to:

- (1) Sell malt beverages or unfortified wine to anyone less than 21 years old; or
- (2) Sell fortified wine, spirituous liquor, or mixed beverages to anyone less than 21 years old.

(a1) Give. It shall be a violation for any person to:

- (1) Give malt beverages or unfortified wine to anyone less than 21 years old; or
- (2) Give fortified wine, spirituous liquor, or mixed beverages to anyone less than 21 years old.

(b) Purchase, possession, or consumption. It shall be a violation for:

- (1) A person less than 21 years old to purchase, to attempt to purchase, or to possess malt beverages or unfortified wine; or
- (2) A person less than 21 years old to purchase, to attempt to purchase, or to possess fortified wine, spirituous liquor, or mixed beverages; or
- (3) A person less than 21 years old to consume any alcoholic beverage.

(c) Aider and abettor.

(1) By underage person. Any person who is under the lawful age to purchase and who aids or abets another in violation of subsection (a), (a1), or (b) of this section shall be in violation of this ordinance.

(2) By person over lawful age. Any person who is over the lawful age to purchase and who aids or abets another in violation of subsection (a), (a1), or (b) of this section shall be in violation of this ordinance.

(d) Defense. It shall be a defense to a violation of subsection (a) of this section if the seller:

(1) Shows that the purchaser produced a tribal identification card, state identification card, a military identification card, or a passport, showing his age to be at least the required age for purchase and bearing a physical description of the person named on the card reasonably describing the purchaser; or

(2) Produces evidence of other facts that reasonably indicated at the time of sale that the purchaser was at least the required age.

(e) Fraudulent use of identification. It shall be a violation for any person to enter or attempt to enter a place where alcoholic beverages are sold or consumed, or to obtain or attempt to obtain alcoholic beverages, or to obtain or attempt to obtain permission to purchase alcoholic beverages, in violation of subsection (b) of this section, by using or attempting to use any of the following:

(1) A fraudulent or altered driver's license.

(2) A fraudulent or altered identification document other than a driver's license.

(3) A driver's license issued to another person.

(4) An identification document other than a driver's license issued to another person.

- (5) Any other form or means of identification that indicates or symbolizes that the person is not prohibited from purchasing or possessing alcoholic beverages under this section.
- (f) Allowing use of identification. It shall be a violation for any person to permit the use of the person's driver's license or any other form of identification of any kind issued or given to the person by any other person who violates or attempts to violate subsection (b) of this section.
- (g) Report sent to Division of Motor Vehicles. The Commission shall file a report with the appropriate state Division of Motor Vehicles indicating the name of the person found to have violated this section and any other information requested by the Division if the person is found to have committed any of the following violations:
- (1) A violation of subsection (e) or (f) of this section.
 - (2) A violation of subsection (c) of this section.
 - (3) A violation of subsection (b) of this section, if the violation occurred while the person was purchasing or attempting to purchase an alcoholic beverage.
 - (4) A violation of subsection (a1) of this section.
- (h) Handling in course of employment. Nothing in this section shall be construed to prohibit an underage person from selling, transporting, possessing or dispensing alcoholic beverages in the course of employment, if the employment of the person for that purpose is lawful under applicable youth employment statutes and Commission rules.

SEC. 18B-302.1. - PENALTIES FOR CERTAIN OFFENSES RELATED TO UNDERAGE PERSONS.

(a) A violation of Section 18B-302(a) or (a1). A person found to have violated Section 18B-302(a) or (a1) must pay a fine of at least \$250.00, with the amount of such fine increasing by \$250 for all prior violations incurred during the preceding two years from the date of the violation.

(b) A violation of Section 18B-302(c)(2). A person found to have violated Section 18B-302(c)(2) must pay a fine of at least \$500.00, with the amount of such fine increasing by \$500 for all prior violations incurred during the preceding three years from the date of the violation.

SECS. 18B-303, 18B-304. - RESERVED.

SEC. 18B-305. - OTHER PROHIBITED SALES.

(a) Sale to intoxicated person. It shall be a violation for a permittee or his employee to knowingly sell or give alcoholic beverages to any person who is intoxicated.

(b) Discretion for seller. Any person authorized to sell alcoholic beverages under this Ordinance may, in his discretion, refuse to sell to anyone. It shall be a violation for any person to knowingly buy alcoholic beverages for someone who has been refused the right to purchase under this subsection.

(c) Notwithstanding subsection (b) of this section, no permittee may refuse to sell alcoholic beverages to a person solely based on that person's race, religion, color, national origin, sex, or disability.

SEC. 18B-306. - SALE AND CONSUMPTION AT CASINOS AND HOTELS.

It shall be lawful to possess and consume any alcoholic beverage that is purchased in any room of a licensed casino while a casino game, raffle game or bingo game is being conducted in that room so long as all Class II and Class III games being conducted are within the lawful authority of the

Indian Gaming Regulatory Act (IGRA) and the federally approved Tribal-state compact and all amendments thereto.

SECS. 18B-307—18B-399. - RESERVED.

ARTICLE 4 –

RESERVED

ARTICLE 5 –

ENFORCEMENT

SEC. 18B-500. - TRIBAL ALCOHOL ENFORCEMENT AGENTS.

- (a) Appointment. The TABCC may appoint a Chief Tribal alcohol enforcement agent. The Chair of the TABCC or the Chair's designee shall have the authority to supervise day-to-day activities of the Chief alcohol law-enforcement agent or the Chair's designee. The Chief Tribal alcohol enforcement agent may appoint, with the approval of the TABCC, Tribal alcohol law-enforcement agents and other enforcement personnel. Tribal alcohol law-enforcement agents shall be designated as "Tribal alcohol enforcement agents."
- (b) Subject matter jurisdiction. After taking the oath prescribed for a peace officer, a Tribal alcohol enforcement agent shall have authority to take all investigatory actions and refer any criminal offenses to appropriate law enforcement authorities for further investigation and prosecution.
- (c) Territorial jurisdiction. A Tribal alcohol enforcement agent is a Tribal officer with jurisdiction throughout the Indian country of the Catawba Indian Nation.
- (d) Service of commission orders. Tribal alcohol enforcement agents may serve and execute notices, orders, or demands issued by the TABCC for the surrender of permits or relating to any administrative proceeding. While serving and executing such notices, orders, or demands, alcohol law-enforcement agents shall have all the power and authority to request

the assistance of appropriate law enforcement authorities in the event criminal conduct is suspected and arrests are anticipated.

SECS. 18B-501—18B-599. - RESERVED.

ARTICLE 6 –

RESERVED

ARTICLE 7 –

SALES

SEC. 18B-700 - RETAIL SALE OF ALCOHOLIC BEVERAGES.

Spirituuous liquor, fortified and unfortified wine and malt beverages may be offered for retail sale only under the provisions of a permit issued by TABCC as authorized by the provisions of this ordinance. TABCC shall operate any retail spirituuous and fortified wine store that may in the future be authorized. TABCC shall also be authorized to operate a retail malt beverage and unfortified wine store, subject to applicable law.

SECS. 18B-701—18B-799. - RESERVED.

ARTICLE 8 –

OPERATION OF ABC WAREHOUSE

**SEC. 18B-800. - PURCHASE FROM STATE UNTIL TRIBE ESTABLISHES
WHOLESALE DISTRIBUTION SYSTEM.**

All alcoholic beverages authorized to be sold shall be purchased by the permittee from TABCC or as directed by TABCC.

SECS. 18B-801—18B-803. - RESERVED.

SEC. 18B-804. - ALCOHOLIC BEVERAGE PRICING.

The uniform pricing of spirits sold to permittees and the public shall be the same uniform price as published by state law, if required under applicable law. Where a tax or markup is imposed in this section, the TABCC is authorized to impose the same tax or markup as a Tribal tax or markup, where appropriate, and to utilize such tax or markup in operations of TABCC and profits after operation shall be distributed as determined by the Executive Committee.

SECS. 18B-805—18B-899. - RESERVED.

ARTICLE 9 – ISSUANCE OF PERMITS

SEC. 18B-900. - NATION'S GAMING ENTERPRISES ELIGIBLE FOR ABC PERMIT.

The Nation's gaming enterprises shall be eligible to receive and to hold a Tribal ABC permit for the retail sale of alcoholic beverages on the premises of the Kings Mountain gaming facility and all additional gaming facilities authorized by the Commission. At the request of the Nation's gaming enterprises, TABCC is authorized to issue a permit to a contracted or leased facility providing a service for the Nation's gaming enterprises on the premises of Kings Mountain facilities.

SECS. 18B-901—18B-999. - RESERVED.

ARTICLE 10 – RETAIL ACTIVITY

SECS. 18B-1000—18B-1003. - RESERVED.

SEC. 18B-1004. - HOURS FOR SALE AND CONSUMPTION.

It shall be a violation of this Ordinance to sell alcoholic beverages on any licensed premises during hours when such sales are prohibited by either TABCC regulations or prevailing state law.

SEC. 18B-1005. - CONDUCT ON LICENSED PREMISES.

(a) Certain conduct. It shall be a violation for a permittee or his agent or employee to knowingly allow any of the following kinds of conduct to occur on his licensed premises:

(1) Any violation of this Ordinance;

(2) Any unsanctioned fighting or other disorderly conduct that can be prevented without undue danger to the permittee, his employees or patrons; or

(3) Any violation of the controlled substances or prostitution statutes, or any other unlawful acts.

(b) Supervision. It shall be a violation for a permittee to fail to superintend in person or through a manager the business for which a permit is issued.

SEC. 18B-1006. - RESERVED.

**SEC. 18B-1007. - ADDITIONAL REQUIREMENTS FOR MIXED BEVERAGES
PERMITTEES.**

(a) Handling bottles. It shall be a violation for a mixed beverages permittee or the permittee's agent or employee to do any of the following:

(1) Store any other spirituous liquor with liquor possessed for resale in mixed beverages or from a guest room cabinet.

(2) Refill any spirituous liquor container having a mixed beverages tax stamp with any other alcoholic beverage or add to the contents of such a container any other alcoholic beverage.

(3) Transfer from one container to another a mixed beverages tax stamp.

- (4) Possess any container of spirituous liquor not bearing a mixed beverages tax stamp, except for containers being brought onto the premises by the host of a private function under a special occasion permit.
- (b) Price list. Each mixed beverages permittee shall have available for its customers the printed prices of the most common or popular mixed beverages offered for sale by the permittee.

**ARTICLE 11 –
AMENDMENTS**

**SEC. 18B-1100. – APPROVAL PROCESS; AUTHORITY OF THE EXECUTIVE
COMMITTEE TO AMEND THIS ORDINANCE.**

In approving this Ordinance for the regulation of alcoholic beverages, the General Council hereby expressly authorizes the Executive Committee to amend as necessary the provisions of this Ordinance, without the need for further review or approval by the General Council, to address issues raised by the federal government in order to secure the Ordinance's approval and as necessary to obtain the applicable regulatory approvals, and such amendments shall be fully incorporated herein and shall be binding upon the Nation in accordance with their terms. If the Executive Committee exercises this authority to amend this Ordinance it shall thereafter inform the General Council of those amendments no later than the next meeting of the General Council.

Bryan Newland,
Assistant Secretary – Indian Affairs.